

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Art Unit: 1625

Rene HERSPERGER et al.

Examiner: Mabry, John

APPLICATION NO: 10/597,753

FILED: September 20, 2006

FOR: CHEMOKINE RECEPTORS ANTAGONIST

**MS: General**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

**PETITION REGARDING PATENT TERM ADJUSTMENT POST GRANT UNDER C.F.R.**

**§1.705(b)**

Sir:

In accordance with 37 C.F.R. § 1.705(b), Applicant hereby applies for patent term adjustment under 35 U.S.C. § 154(b) of 1002 days. This application is being filed with the payment of the issue fee, as required by 37 C.F.R. § 1.705 (b).

As an initial matter, Applicants appreciate the information provided in the Office of Petitions letter dated November 22, 2010 regarding the preliminary petition for patent term adjustment filed September 20, 2010.

**I. Fee**

The Office acknowledged receipt of the petition fee of \$200.00 required by 37 C.F.R. §1.705(b)(1) in the letter dated November 22, 2010. Please charge any deficiencies or any additional fees due in response to this request to Deposit Account **50-4409**.

**II. Statement of the Facts Involved**

**A. Correct Patent Term Adjustment**

The Issue notification indicated a preliminary Patent Term Adjustment of 1042 days.

Patentee has calculated a final patent term adjustment of 1002 days based on the following facts:

**Relevant Dates**

The above identified application has a 35 U.S.C. §371 filing date of September 20, 2006.

The first Office Action, which was a Restriction Requirement, was mailed on June 10, 2009, resulting in a PTO delay of 568 days beyond the 14 months provided by 35 U.S.C. §154(b).

A Response by Patentee was filed July 8, 2009, within the 3 months provided by 35 U.S.C. §154(b).

An Information Disclosure statement was filed on August 7, 2009, resulting in an applicant delay of 30 days beyond the 3 months provided by 35 U.S.C. §154(b).

A non-final office action was mailed October 20, 2009, within the 4 months provided by 35 U.S.C. §154(b).

A Response by Patentee was filed November 18, 2009, within the 3 months provided by 35 U.S.C. §154(b).

A non-final office action was mailed February 3, 2010, within the 4 months provided by 35 U.S.C. §154(b).

A Response by Patentee was filed April 19, 2010, within the 3 months provided by 35 U.S.C. §154(b).

A Notice of Allowance was mailed June 21, 2010, within the 4 months provided by 35 U.S.C. §154(b).

The issue fee has been paid on September 20, 2010, within the 3 months provided by 35 U.S.C. §154(b).

Accordingly, the initial PTO adjustment based on delay under 35 U.S.C. § 154(b)(2)(A) is 568 days. The reduction in term adjustment due to applicant delay is 30 days, resulting in a patent term adjustment of 538 days under 35 U.S.C. § 154(b)(2)(A).

The 35 U.S.C. § 154(b)(2)(B) period for the instant application began on September 20, 2009 (three years after the filing date of September 20, 2006) and ended on December 28, 2010 with the issuance of the instant application. The 35 U.S.C. § 154(b)(2)(B) period is 464 days.

The reduction in term adjustment due to applicant delay is 0 days, resulting in an initial patent term adjustment of 464 days under 35 U.S.C. § 154(b)(2)(B).

Accordingly, the sum of the 35 U.S.C. § 154(b)(2)(B) delay (464 days) and non-overlapping 35 U.S.C. § 154(b)(2)(A) delay (538 days) results in an final PTA of 1002 days.

The final PTA printed on the Issue Notification is 1042 days. Applicants therefore respectfully request reconsideration of the initial PTA calculation.

**B. Terminal Disclaimer**

The above-identified patent is not subject to a Terminal Disclaimer.

**C. Reasonable Efforts**

Any applicant delays under 37 C.F.R. § 1.704 are set forth above. There were no other circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

Respectfully submitted,

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